**THE HON'BLE SRI JUSTICE GODA RAGHURAM**

**WRIT PETITION No. 14996 of 2006**

Date: 21-07-2006.

Between :

Adapala Rajeswaramma & another.

.....Petitioners

And

The District Collector (LA), Nellore District & others.

.....Respondents.

**THE HON'BLE SRI JUSTICE GODA RAGHURAM**

**WRIT PETITION No. 14996 of 2006**

**ORDER** :

Petitioners' lands in Vidavaluru village and Mandal, Nellore District are proposed to be acquired under the provisions of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act'). A Draft Notification under Section 4(1) of the Act was issued on 24.04.2006 by the respondents. The acquisition is stated to be for the public purpose of providing house sites for weaker sections. Invoking the urgency clause under Section 17 of the Act, the statutory process of enquiry under Section 5-A of the Act has been dispensed with. A Draft Declaration under Section 6 of the Act has also been published on 17.05.2006. Petitioners assails the proposal for acquisition on several grounds including that the urgency clause was invoked without just or reasonable cause and in abuse of discretion. It is also alleged that earlier, some others' lands in the neighbourhood were sought to be acquired, but at the instance of the local Legislator, the

earlier proposal was eschewed because those lands belonged to the legislator's followers and in irrational exercise of discretion, it is now proposed to acquire the petitioners' lands.

Acquisition of lands for providing house sites for weaker sections is a regular feature of affirmative State action. Provision of house sites by acquisition of lands in Vidavaluru village and Mandal, Nellore District is not such an emergent event that justifies the invocation of urgency clause under Section 17 of the Act to dispense with the enquiry under Section 5-A of the Act. The ritualistic exercise of power and irrational exercise of discretion in invoking the urgency clause is arbitrary, irrational and un-sustainable. This exercise of discretion is therefore declared to be so. Consequently, the Draft Declaration issued under Section 6 of the Act is quashed. The respondents are directed to conduct an enquiry under Section 5-A of the Act after issuing due notices to the land owners or persons in occupation of land in question in accordance with the procedure prescribed under law, to conduct an enquiry, afford a personal hearing to the persons who so desire and to record a reasoned decision why the objections, if any, submitted do not deserve accommodation and consideration. The reasoned decision of the respondents shall be communicated to the

petitioners within one week from the date of recording of such a decision under Section 5-A of the Act. Till the communication of the decision as aforesaid, the petitioners shall not be dispossessed.

Counsel for petitioner is also permitted to address under his letter-head informing the respondents that this Court has quashed the Draft Declaration under Section 6 of the Act and directed enquiry under Section 5-A of the Act in so far as the petitioners are concerned.

Writ petition is accordingly allowed at the stage of admission after hearing the learned counsel for petitioners and also the learned Government Pleader for Land Acquisition. No order as to costs.

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(GODA RAGHURAM, J)

21st July 2006

N.B:
Furnish copy of order by 24.07.2006.

(B/o)

ajr